

BOIES, SCHILLER & FLEXNER LLP
OAKLAND, CALIFORNIA

MORRISON & FOERSTER LLP
MICHAEL A. JACOBS (Bar No. 111664)
mjacobs@mofo.com
MARC DAVID PETERS (Bar No. 211725)
mdpeters@mofo.com
DANIEL P. MUINO (Bar No. 209624)
dmuino@mofo.com
755 Page Mill Road, Palo Alto, CA 94304-1018
Telephone: (650) 813-5600 / Facsimile: (650) 494-0792

BOIES, SCHILLER & FLEXNER LLP
DAVID BOIES (Admitted *Pro Hac Vice*)
dboies@bsflp.com
333 Main Street, Armonk, NY 10504
Telephone: (914) 749-8200 / Facsimile: (914) 749-8300
STEVEN C. HOLTZMAN (Bar No. 144177)
sholtzman@bsflp.com
1999 Harrison St., Suite 900, Oakland, CA 94612
Telephone: (510) 874-1000 / Facsimile: (510) 874-1460
ALANNA RUTHERFORD
575 Lexington Avenue, 7th Floor, New York, NY 10022
Telephone: (212) 446-2300 / Facsimile: (212) 446-2350 (fax)

ORACLE CORPORATION
DORIAN DALEY (Bar No. 129049)
dorian.daley@oracle.com
DEBORAH K. MILLER (Bar No. 95527)
deborah.miller@oracle.com
MATTHEW M. SARBORARIA (Bar No. 211600)
matthew.sarboraria@oracle.com
500 Oracle Parkway, Redwood City, CA 94065
Telephone: (650) 506-5200 / Facsimile: (650) 506-7114

Attorneys for Plaintiff
ORACLE AMERICA, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

ORACLE AMERICA, INC.

Plaintiff,

v.

GOOGLE, INC.

Defendant.

Case No. CV 10-03561 WHA

**DECLARATION OF GEORGE SIMION IN
SUPPORT OF ORACLE AMERICA,
INC.'S ADMINISTRATIVE MOTION TO
FILE EXHIBIT 4 UNDER SEAL**

Dept.: Courtroom 9, 19th Floor
Judge: Honorable Donna M. Ryu

1 I, GEORGE P. SIMION, declare as follows:

2 1. I am in-house counsel for Oracle America, Inc. ("Oracle"). My title is Senior Patent
3 Counsel and I represent Oracle in the above-captioned matter.

4 2. I make this declaration based on my own personal knowledge. If called as a witness, I
5 could and would testify competently as to the matters set forth herein.

6 3. The material presented in Exhibit 4 to the Second Declaration of Fred Norton, a document
7 bearing Bates stamp GOOGLE-00392259-285, appears on its face to have been endorsed
8 "CONFIDENTIAL" by Google, Inc., not by Oracle. Nonetheless, Oracle supports keeping that
9 material under seal. The presentation was created by Oracle to present to Google in an effort to settle
10 this matter prior to trial. Accordingly, it is cloaked by Federal Rule of Evidence 408, and is clearly
11 marked as "Confidential and Privileged," and subject to Rule 408, on each page that reflects substantive
12 information. Oracle does not ordinarily make its settlement presentations public during the ordinary
13 course of business, and disclosure of Oracle's settlement strategy could give an unfair advantage to any
14 future settlement counterparties. Moreover, keeping that material sealed will ensure that the
15 presentation continues to be used only for purposes of deciding the privilege claim at hand, and not for
16 a purpose prohibited by Rule 408.

17 4. I declare under penalty of perjury that the foregoing is true and correct and that this
18 declaration was executed on August 19, 2011 at Redwood Shores, California.

19
20 By: /s/ George P. Simion
George P. Simion

ATTESTATION OF FILER

I, Fred Norton, have obtained Mr. Simion's concurrence to file this document on his behalf.

Dated: August 19, 2011

BOIES, SCHILLER & FLEXNER LLP

By: /s/ Fred Norton
Fred Norton

Attorneys for Plaintiff
ORACLE AMERICA, INC.

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